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To: Examiner Stephan Willett Art Unit 2141	Facsimile No.: 703/746-5490 Main No. of Receiving Firm:
From: Barry Jones/mg Date: September 29, 2004	No. of Pages Including Cover Sheet: 11 total
Message:  Applicant Initiated Interview Request Form following.	
RE: application no. 09/292,191; docket no. AT9-98-355	

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PTOL-413A (08-03)  
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### Applicant Initiated Interview Request Form

Application No.: 09/1292,191 First Named Applicant: William Meyer Smith  
 Examiner: Willett, Stephen F. Art Unit: 7141 Status of Application: \_\_\_\_\_

**Tentative Participants:**

(1) Catherine Kinslow (2) Barry Jones  
 (3) Stephen Willett (4) \_\_\_\_\_

Proposed Date of Interview: 9/30/04 Proposed Time: 11:30 (AM/PM) EASTERN

**Type of Interview Requested:**

(1)  Telephonic (2)  Personal (3)  Video Conference

Exhibit To Be Shown or Demonstrated:  YES  NO

If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Rej.</u>	<u>4</u>	<u>Miller, Boyle, Phaal</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2) <u>Rej.</u>	<u>8</u>	<u>Miller, Phaal</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(3) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4) _____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Continuation Sheet Attached

**Brief Description of Arguments to be Presented:**

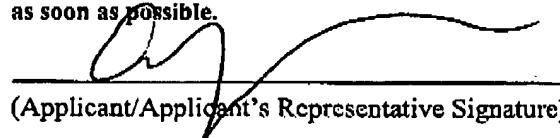
Do not believe that Miller teaches dividing file into subfiles, as in claim 4  
Do not believe that Phaal teaches reserving network resources, as received in  
claim 8

An interview was conducted on the above-identified application on \_\_\_\_\_.

**NOTE:**

This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

  
 (Applicant/Applicant's Representative Signature)

(Examiner/SPE Signature)

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS

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IN THE CLAIMS

Please cancel claims 1, 10, 19 and 28 without prejudice or disclaimer.

Please amend claims 2, 4-5, 11, 13-14, 20, 22-23 and 29-32 as indicated below.

This listing of claims will replace all prior versions, and listings, of the claims in the Application:

Listing of Claims:

Claim 1 (cancelled)

1 Claim 2 (currently amended) The method of claim [[1]] 4 wherein said step of  
2 allocating a scheduled time comprises the steps of:  
3       selecting said scheduled time; and  
4       notifying said client to resend said network request at said scheduled time.

1 Claim 3 (original) The method of claim 2 wherein said step of selecting said  
2 scheduled time comprises the step of selecting said scheduled time from a preselected  
3 plurality of time slots.

1 Claim 4 (currently amended) ~~The method of claim 1 further comprising the steps of:~~  
2 A method of servicing a network request comprising the steps of:  
3       determining availability of resource capacity in response to a network request  
4       for data from a server, received from a client;  
5       responsive to the determining step, allocating a scheduled time for resending  
6       said network request to said server by said client; and  
7       breaking a file requested in said network request into a set of subfiles, wherein  
8       said network request scheduled for resending comprises a request to send a  
9       preselected subfile of said set of subfiles.

1 Claim 5 (currently amended) The method of claim [[1]] 4 further comprising the step  
2 of servicing said request in real time when resource capacity is available.

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1 Claim 6 (previously presented) The method of claim 3 wherein each time slot  
2 includes a first portion having a first preselected proportion of a predetermined  
3 network resource capacity, said first portion comprising a portion reserved for  
4 servicing requests in real time.

1 Claim 7 (previously presented) The method of claim 3 wherein each time slot  
2 includes a first portion having a first preselected proportion of a predetermined  
3 network resource capacity, said first portion comprising a portion reserved for  
4 servicing at least one scheduled request.

1 Claim 8 (previously presented) A method of servicing a network request comprising  
2 the steps of:

3 determining availability of resource capacity in response to said network  
4 request; and

5 allocating a scheduled time for resending said network request by a client  
6 initiating said request, wherein said step of allocating a schedule time comprises the  
7 steps of:

8 selecting said scheduled time; and

9 notifying said client to resend said network request at said scheduled time, and  
10 wherein said step of selecting said scheduled time comprises the step of selecting said  
11 scheduled time from a preselected plurality of time slots, wherein each time slot  
12 includes a first portion having a first preselected proportion of a predetermined  
13 network resource capacity, said first portion comprising a portion reserved for  
14 servicing requests in real time, and wherein said first portion includes a second  
15 portion reserved for servicing requests having a first priority.

1 Claim 9 (previously presented) A method of servicing a network request comprising  
2 the steps of:

3 determining availability of resource capacity in response to said network  
4 request; and

5 allocating a scheduled time for resending said network request by a client initiating  
6 said request, wherein said step of allocating a schedule time comprises the steps of:

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7               selecting said scheduled time; and  
8               notifying said client to resend said network request at said scheduled time, and  
9               wherein said step of selecting said scheduled time comprises the step of selecting said  
10          scheduled time from a preselected plurality of time slots, wherein each time slot  
11          includes a first portion having a first preselected proportion of a predetermined  
12          network resource capacity, said first portion comprising a portion reserved for  
13          servicing at least one scheduled request, and wherein said first portion includes a  
14          second portion reserved for servicing requests having a first priority.

Claim 10 (cancelled)

1       Claim 11 (currently amended) The data processing system of claim [[10]] 13 wherein  
2       said circuitry operable for allocating a schedule time comprises:  
3               circuitry operable for selecting said scheduled time; and  
4               circuitry operable for notifying said client to resend said network request at  
5        said scheduled time.

1       Claim 12 (original) The data processing system of claim 11 wherein said circuitry  
2       operable for selecting said scheduled time comprises circuitry operable for selecting  
3        said scheduled time from a preselected plurality of time slots.

1       Claim 13 (currently amended) ~~The data processing system of claim 10 further~~  
2       comprising: A data processing system for servicing a network request comprising:  
3               circuitry operable for determining availability of resource capacity in response  
4               to a network request for data from a server received by said server from a client;  
5               circuitry operable for allocating a scheduled time for resending said network  
6               request by said client in response to the circuitry operable for determining availability  
7               of resource capacity; and  
8                circuitry operable for breaking a file requested in said network request into a  
9        set of subfiles, wherein said network request scheduled for resending comprises a  
10      request to send a preselected subfile of said set of subfiles.

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1 Claim 14 (currently amended) The data processing system of claim [[10]] 13 further  
2 comprising circuitry operable for servicing said request in real time when resource  
3 capacity is available.

1 Claim 15 (previously presented) The data processing system of claim 12 wherein  
2 each time slot includes a first portion having a first preselected proportion of a  
3 predetermined network resource capacity, said first portion comprising a portion  
4 reserved for servicing requests in real time.

1 Claim 16 (previously presented) The data processing system of claim 12 wherein  
2 each time slot includes a first portion having a first preselected proportion of a  
3 predetermined network resource capacity, said first portion comprising a portion  
4 reserved for servicing at least one scheduled request.

1 Claim 17 (previously presented) A data processing system for servicing a network  
2 request comprising:

3       circuitry operable for determining availability of resource capacity in response  
4 to said network request; and

5       allocating a scheduled time for resending said network request by a client  
6 initiating said request, wherein said circuitry operable for allocating a schedule time  
7 comprises:

8       circuitry operable for selecting said scheduled time; and

9       circuitry operable for notifying said client to resend said network request at  
10 said scheduled time, wherein said circuitry operable for selecting said scheduled time  
11 comprises circuitry operable for selecting said scheduled time from a preselected  
12 plurality of time slots, whrcin each time slot includes a first portion having a first  
13 preselected proportion of a predetermined network resource capacity, said first  
14 portion comprising a portion reserved for servicing requests in real time, and wherein  
15 said first portion includes a second portion reserved for servicing requests having a  
16 first priority.

1 Claim 18 (previously presented) A data processing system for servicing a network  
2 request comprising:

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3           circuitry operable for determining availability of resource capacity in response  
4        to said network request; and

5           allocating a scheduled time for resending said network request by a client  
6        initiating said request, wherein said circuitry operable for allocating a schedule time  
7        comprises:

8           circuitry operable for selecting said scheduled time; and

9           circuitry operable for notifying said client to resend said network  
10      request at said scheduled time, wherein said circuitry operable for selecting said  
11      scheduled time comprises circuitry operable for selecting said scheduled time from a  
12      preselected plurality of time slots and-12 wherein each time slot includes a first  
13      portion having a first preselected proportion of a predetermined network resource  
14      capacity, said first portion comprising a portion reserved for servicing at least one  
15      scheduled request, and wherein said first portion includes a second portion reserved  
16      for servicing requests having a first priority.

Claim 19 (cancelled)

1        Claim 20 (currently amended) The program product of claim [[19]] 22 wherein said  
2        programming for allocating a schedule time comprises:

3           programming for selecting said scheduled time; and

4           programming for notifying said client to resend said network request at said  
5        scheduled time.

1        Claim 21 (original) The program product of claim 20 wherein said programming for  
2        selecting said scheduled time comprises programming for selecting said scheduled  
3        time from a preselected plurality of time slots.

1        Claim 22 (currently amended) ~~The program product of claim 19 further comprising~~  
2        programming for: A program product adaptable for storage on program storage  
3        media, the program product operable for servicing a network request, the program  
4        product comprising:

5           programming for determining availability of resource capacity in response to a  
6           network request for data from a server received by said server from a client;

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7       programming for allocating a scheduled time for resending said network request by a  
8       said client in response to the programming for determining availability of resource  
9       capacity; and

10           

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breaking a file requested in said network request into a set of subfiles, wherein  
11       said network request scheduled for resending comprises a request to send a  
12       preselected subfile of said set of subfiles.

1       Claim 23 (currently amended) The program product of claim [[19]] 22 further  
2       comprising programming for servicing said request in real time when resource  
3       capacity is available.

1       Claim 24 (previously presented) The program product of claim 21 wherein each time  
2       slot includes a first portion having a first preselected proportion of a predetermined  
3       network resource capacity, said first portion comprising a portion reserved for  
4       servicing requests in real time.

1       Claim 25 (previously presented) The program product of claim 21 wherein each time  
2       slot includes a first portion having a first preselected proportion of a predetermined  
3       network resource capacity, said first portion comprising a portion reserved for  
4       servicing at least one scheduled request.

1       Claim 26 (previously presented) A program product adaptable for storage on  
2       program storage media, the program product operable for servicing a network  
3       request, the program product comprising:

4            programming for determining availability of resource capacity in response to  
5       said network request; and

6            programming for allocating a scheduled time for resending said network  
7       request by a client initiating said request, wherein said programming for allocating a  
8       schedule time comprises the steps of:

9            programming for selecting said scheduled time; and

10            programming notifying said client to resend said network request at said  
11       scheduled time, and

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12 wherein said step of selecting said scheduled time comprises the step of selecting said  
13 scheduled time from a preselected plurality of time slots, wherein each time slot  
14 includes a first portion having a first preselected proportion of a predetermined  
15 network resource capacity, said first portion comprising a portion reserved for  
16 servicing requests in real time, and wherein said first portion includes a second  
17 portion reserved for servicing requests having a first priority.

1 Claim 27 (previously presented) A program product adaptable for storage on  
2 program storage media, the program product operable for servicing a network  
3 request, the program product comprising:

4 programming for determining availability of resource capacity in response to  
5 said network request; and

6 programming for allocating a scheduled time for resending said network  
7 request by a client initiating said request, wherein said programming for allocating a  
8 schedule time comprises the steps of:

9 programming for selecting said scheduled time; and

10 programming notifying said client to resend said network request at said  
11 scheduled time, and

12 wherein said step of selecting said scheduled time comprises the step of selecting said  
13 scheduled time from a preselected plurality of time slots, wherein each time slot  
14 includes a first portion having a first preselected proportion of a predetermined  
15 network resource capacity, said first portion comprising a portion reserved for  
16 servicing at least one scheduled request, and wherein said first portion includes a third  
17 portion second portion reserved for servicing requests having a first priority.

Claim 28 (cancelled)

1 Claim 29 (currently amended) The data processing system of claim [[28]] 32 wherein  
2 said request is scheduled for servicing at a selected time.

1 Claim 30 (currently amended) The data processing system of claim [[28]] 32 wherein  
2 said client further includes circuitry operable for resending said request in response to  
3 said notification.

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1       Claim 31 (currently amended) The data processing system of claim [[28]] 32 wherein  
2       said network comprises the Internet.

1       Claim 32 (currently amended) ~~The data processing system of claim 28~~ A data  
2       processing system comprising:

3               a network;  
4               a client coupled to said network; and  
5               a server coupled to said network, said client including circuitry operable for  
6       sending a request for delivery of software assets over said network to said server,  
7       wherein said server includes circuitry operable for scheduling said request for delayed  
8       servicing in response to insufficient system capacity, and circuitry for sending a  
9       notification to said client to resend said request according to said scheduling, wherein  
10      said server further includes circuitry operable for breaking said software asset into a  
11      plurality of subfiles, wherein said request for resending comprises a request for a  
12      preselected subfile of said plurality.

1       Claim 33 (previously presented) A method for servicing a network request  
2       comprising:

3               determining availability of resource capacity in response to said network  
4       request;

5               allocating a scheduled time for resending said network request by a client  
6       initiating said request, the step of allocating a scheduled time including the substeps  
7       of:

8               selecting said scheduled time; and  
9               notifying said client to resend said network request at said scheduled  
10      time, and

11               wherein said scheduled time is selected from a preselected plurality of  
12      time slots, each time slot including a first portion having a first preselected proportion  
13      of a predetermined network resource capacity, said first portion comprising a portion  
14      reserved for servicing requests in real time, and each time slot including a second  
15      portion having a first preselected proportion of a predetermined network resource

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16 capacity, said second portion comprising a portion reserved for servicing at least one  
17 scheduled request.